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Urgently Needed:

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New Reagan Intelligence Directive

Faced with a dangerous military power gap that cannot be closed for a decade or so, President Reagan is confronted by graver security problems than any other President since the end of World War II. With an aggressive Soviet Union outstripping the United States in military might for the first time in history, it is apparent that this country, more than ever before, must depend on its intelligence agencies to preserve its security and the freedom of its people. The agencies must perform as never before—to ensure that the U.S. is not taken by surprise by any Communist or other hostile bloc operation in any part of the world.

This fact points up one of the most important of the security issues the President must deal with, one that is just now receiving some attention since last November's elections: the urgent need for new operational rules for the intelligence community.

Since Jan. 24, 1978, the community* has been ruled—or, more precisely, irrationally inhibited—by Executive Order 12036, issued on that date by former President Carter.

It is not necessary to review all of the order's Section 2, "Restrictions on Intelligence Activities" (and its subsection, "Additional Restrictions and Limitations"), to demonstrate the compelling need of supplanting this security-endangering mandate with a new Reagan directive. One hypothetical example of how the Carter order bars the CIA (and all other agencies) from effective intelligence collection abroad will prove the point.

Imagine that you are a CIA officer stationed in some distant country in Asia, Africa or South America. Having been there for some years, you know who the local Communist leaders are and, to your satisfaction, have identified two foreigners resident there as KGB.

Suddenly a new man arrives on the scene. You learn that he is a resident alien from the U.S. who emigrated to the States from an East European nation five years ago and is allegedly vacationing. You observe him meeting with a prominent local Communist and also with one of the KGB agents in public places. You also learn that these same two people are visiting him for lengthy periods in his hotel room.

You know you should find out what is going on between him and his two contacts. The idea of bugging his hotel room occurs to you as an obvious solution to this problem.

But you cannot do that under the Carter order. Why? Because it classifies a resident alien as a "United States person" and says no intelligence agency can tap, bug, or use any other intrusive intelligence technique against a U.S. person without the explicit, personal approval of the attorney general. Moreover, the attorney general cannot grant approval unless, from thousands of miles away, he determines there is "probable cause" to believe the person in question is the agent of a foreign power.

You want quick action because you are not sure how long the man will be around. Being in a friendly country and having contacts with its intelligence service, you naturally think of having one of its agents do the bugging for you.

But you cannot do that either—because the Carter order forbids your asking or encouraging "directly or indirectly, any person, organization or government agency," anywhere, to do what you cannot do.

There is only one thing you can do—follow the "lawful" route prescribed in the Carter order. So you send an urgent cable to CIA headquarters asking that it obtain the attorney general's permission for you to plant a bug ("Thank God," you say to yourself, "Ramsey Clark is not attorney general now.") The CIA agrees you have a good case and forwards your request.

But the attorney general is off addressing a convention of the American Bar Association in Hawaii, London, or some other distant spot. When he gets back, he agrees with the CIA's assessment.

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* The Central Intelligence Agency; Defense Intelligence Agency; National Security Agency; Federal Bureau of Investigation; Department of Energy; the State Department Bureau of Intelligence and Research; Navy and Air Force intelligence; and the Drug Enforcement Administration.